

# **MELLO-ROOS DISTRICTS**

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The California legislature passed the Mello-Roos Community Facilities Act of 1982, which became law in January of 1983 (California Government Code Section 53311 et. seq.) This act allows local governments to establish a Mello-Roos special tax assessment district in a developing area to finance specific public facilities and services needed by that particular area. A Mello-Roos Community Facilities District (CFD) is initiated by either: (1) a written request signed by two members of the legislative body (local government or school district); (2) a petition signed by 10% of the eligible voters in the area; or (3) a petition signed by the landowners of 10% of the area in the proposed district.

The legislative body then adopts a resolution of intention to establish a CFD. Public hearings are held by the legislative body and written protests are reviewed. If adequate support for formation of the district is found at the hearings, the legislative body adopts a resolution of formation and an election is held. The formation of a Mello-Roos CFD has to be approved by two-thirds of the eligible voters or landowners in the proposed district. If less than 12 registered voters reside within the proposed district, the vote shall be by the landowners only of the proposed district with each landowner having one vote per acre owned.

Mello-Roos bonds can only be used to finance new or additional facilities and services. The services and facilities that can be financed by a Mello-Roos CFD are: elementary and secondary schools; police protection, including criminal justice facilities; fire protection, including ambulance and paramedic facilities; recreation program services; flood and storm protection services; libraries; natural gas pipeline facilities; telephone lines; electrical transmission lines and facilities; and any other government facility which is owned and operated by the local government. Financing existing facilities and services is not allowed by this act.

Once established, the Mello-Roos district has bonding and taxing authority. It can issue bonds to finance the designated public facilities or services, which are then repaid by a special tax levied by the Mello-Roos district. This special tax is added to the property tax bill by the County Auditor-Controller at the request of the district, and then collected by the County Tax Collector. Although the act does not specify how the special tax should be allocated, most districts apply it according to the benefit received by the parcel (i.e. square footage of new homes is commonly used for schools, and frontage is used for new roads.)

The biggest concern with Mello-Roos financing is the need for adequate disclosure to new buyers that the properties are within a Communities Facilities District, and that these changes will be added to the 1% tax rate as required by Proposition 13. It is essential to emphasize the amount and duration of these Mello-Roos charges to new buyers so that they fully understand that they are included in a district and will be paying higher property taxes to pay off the bonds.

For the disclosure of Mello-Roos on new home sales, the best source is the Public Report, commonly referred to as the "White Paper." Section 11010 of the California Government Code requires disclosure of all indebtedness that is a lien on the subdivision or any part thereof. According to the California Department of Real Estate, the Public Report includes all information submitted to them in the Notice of Intention. Because the Public Report is required on all new subdivision lots, real estate agents are aware of any additional charges. Disclosure then becomes a simple matter of making sure the buyer is aware of these liens or bonds that must be paid off in the future by higher property taxes.

Resales of existing condominiums and homes are another problem altogether. Since a Public Report is not required on resales, the discovery of the amount and duration of the Mello-Roos bonds is not always immediately available. Therefore, the agent may have to do additional research to obtain this information for disclosure purposes.

Part of the requirements of forming a Mello-Roos Community Facilities District involves recording a notice of special tax lien in the County Recorder's Office. This recorded document is noted in any title search performed by a title insurance company as well as the Preliminary Title Report. While this report will note that the property is located in a Mello-Roos district, the particulars of the amount of special taxes and the duration of the tax bonds are not recorded and therefore not provided. Further, escrow provides current and delinquent tax bill information, but does not address future tax liens on the property such as Mello-Roos bonds.

To assist in researching Mello-Roos district locations, the Assessor's Office has created an informational [flier](#) available to any interested party. This flier lists all [Mello-Roos Community Facilities Districts in San Diego County](#) and is updated each September before the new tax bills are issued. This list shows the Mello-Roos districts, a fund number for each of the districts, the contact person, and a telephone number. Information about the amount and duration of the bonds, and the schedule of payments is available through that contact person. For further information, please call the Assessor's Office at (619) 531-6469 or write to Gregory J. Smith, San Diego County Assessor/Recorder/Clerk, 1600 Pacific Highway, Room 103, San Diego, CA 92101.